

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

In Re:)	Case No.: 10-10335
)	
FRENCH BROAD PLACE, LLC)	Chapter: 11
)	
<u>Debtor(s).</u>)	

MOTION TO DISMISS OR CONVERT TO CHAPTER 7

The Office of the Bankruptcy Administrator for the Western District of North Carolina ("Bankruptcy Administrator") moves the Court for an Order dismissing this proceeding or converting it to one under Chapter 7, and says:

1. This is a Chapter 11 proceeding in which a voluntary petition was filed on March 25, 2010.
2. On April 1, 2010, an Operating Order was entered in this case. That Order provided, in part, that the Debtor file monthly status reports, pay quarterly fees, and file a Plan of Reorganization and a Disclosure Statement within one hundred twenty (120) days from entry of the Order for Relief.
3. The Debtor has filed monthly status reports for March, 2010 through July, 2010. A review of the monthly status reports filed show that the following:
 - a. March, 2010
 - i. Receipts of \$696.97
 - ii. Disbursements of \$0.00
 - iii. Ending Cash of \$696.97
 - b. April, 2010
 - i. Receipts of \$13,956.16
 - ii. Disbursements of \$14,024.17
 - iii. Ending Cash of \$628.96
 - c. May, 2010
 - i. Receipts of \$25,733.69

- ii. Disbursements of \$22,307.20
 - iii. Ending Cash of \$4,055.45
 - d. June, 2010
 - i. Receipts of \$12,296.76
 - ii. Disbursements of \$6,111.72
 - iii. Ending Cash of \$6,240.49
 - e. July, 2010
 - i. Receipts of \$15,940.57
 - ii. Disbursements of \$7,820.06
 - iii. Ending Cash of \$14,361.00
- 4. The Debtor owed \$650.00 for quarterly fees for the second quarter of 2010 but only paid \$325.00.
- 5. The Debtor's answer to question number one (1) on the Statement of Financial Affairs filed with their petition, i.e., income from employment or operation of business, was "None."
- 6. The Debtor's Chapter 11 Plan of Reorganization and Disclosure Statement were due on July 23 , 2010. No request for an extension was filed, and neither the Plan nor the Disclosure Statement has been filed as of the date of this Motion.
 - a. An Order Granting Motion to Incur Debt and Obtain New Credit was entered on August 6, 2010.
 - b. According to the Debtor's monthly status report for the month ending July 31, 2010, the Debtor's Debtor In Possession ("DIP") financing should have been available such that the Debtor could have filed a Plan of Reorganization.
 - c. No further information is readily available to determine the status of the DIP financing.

Wherefore, the undersigned moves to dismiss the Debtor's case or convert it to one under Chapter 7 based on the Debtor's failure to comply with the terms of this

Court's Operating Order in that the Debtor has failed to pay all quarterly fees due, has failed to timely file a Plan and Disclosure Statement despite the approval of DIP financing on August 6, 2010 and for such other and further relief as the Court deems just and proper.

This the 29th day of September, 2010.

/s/Alexandria P. Kenny

Alexandria P. Kenny, Bankruptcy Attorney

United States Bankruptcy Administrator

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CERTIFICATE OF SERVICE

The undersigned certifies that the pleading(s) or paper(s) to which this Certificate is affixed was served upon the party(s) to this action listed below by depositing a copy of the same, enclosed in a first-class postpaid, properly addressed wrapper, in a Post Office or official depository under the exclusive care and custody of the United States Postal Service and/or by means of the Electronic Filing System of the Bankruptcy Court on September 29, 2010.

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